IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN

WEDNESDAY, THE 3RD JANUARY 2007 / 13TH POUSHA 1928

CRP.No. 937 of 1998(G)

AGAINST THE ORDER DATED 04/04/1998 IN IA 178/98 IN OP(HM).8/1998 of SUB COURT, TIRUR

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REVN. PETITIONER: RESPONDENT

KANNAMTHARA (PADIKKARAKANDI) SUDEVARAJ
S/o APUNNI, TIRURANGADI TALUK,
ARIYALLOOR AMSOM, KODAKKAD DESOM

BY ADV. SRI.T.KRISHNANUNNI

RESPONDENT:PETITIONER

PAROL PUTHUSSERY BEENA,
D/o BHASKARAN, TIRURANGADI TALUK
NEDUVA AMSOM

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 03/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.S. RADHAKRISHNAN, J.

C.R.P. No 937 of 1998

Dated: 3rd January 2007

O R D E R

This revision petition arises out of the order passed in I.A. No 178 of 1998 in O.P.(HM) No 8 of 1993 of the Sub Court, Tirur. Respondent herein preferred O.P. (H.M) No 8 of 1998 for divorce and the I.A. 178 of 1998 for interim maintenance and expenses of litigation. It was alleged that she was unable to maintain herself and has no property of her own. It was also stated that husband is a contractor who earns a sum of Rs 10,000/- per month and has got several landed properties. She therefore prayed for interim maintenance at the rate of Rs 1,000/- per month and expenses of litigation to the tune of Rs 3,000/-. It is also pointed out that the Judicial Magistrate of First Class, Parappanangadi has ordered that the respondent should pay maintenance at the rate of Rs 500/- per month. It is submitted that a revision has been filed and the order has been stayed. Counsel is not in a position to say the stage of that litigation.

2. Marriage between the parties has been admitted. It is stated that there was a customary divorce on 17.04.1994 and hence petition for maintenance is not maintainable. I find it difficult to accept the contention. Husband could not produce any evidence to show that there was a proper divorce between the parties. In the absence of any proper divorce, the plea that therre was a customary divorce cannot be accepted. Admittedly there was marriage between the parties and so it is the duty of the husband to maintain the wife. It is also alleged that husband has married another woman and a child was born in that union. Taking note of all the aspects of the matter, the court below passed an order awarding interim maintenance at the rate of Rs 500/- per month and Rs 1,000/- towards litigation expenses, which in the facts and circumstances of the case is proper and does not warrant interference. The revision petition therefore lacks merits and the same is dismissed.

C.M.P.No 1899 of 1998 is also dismissed.

SD/-
(K.S. RADHAKRISHNAN, JUDGE)

03/01/2007
en

[TRUE COPY]